

Harassment

EMPLOYMENT DISCRIMINATION

Racial Harassment

National Origin Harassment

Sexual Harassment

All Forms of Harassment

■ EFFECTS OF DISCRIMINATION

- Impact on Employees
 - Less Trusting
 - Less Productive
 - Morale Problems
 - Alienated from Others
 - Feeling of Being Victimized
 - Psychological Trauma
 - Damage to Reputations and Careers

All Forms of Harassment

■ EFFECTS OF DISCRIMINATION

- The Impact on the Organization
 - Hostile Relations
 - Absenteeism and Turnover
 - Loss of Productivity
 - Negative Public Perception

All Forms of Harassment

■ DISCRIMINATION: RACE

- In 2004, a federal jury awarded two deputy fire chiefs \$1 million in damages after finding that they had experienced decades of racial harassment. During the trial, the fire department's attorney argued that the two were "overly sensitive" to firehouse banter. One juror said: "I was very, very surprised – totally flabbergasted – that these kinds of things are still happening in the United States."

Discrimination: National Origin

- Title VII Civil Rights Act protects individuals against employment discrimination on the basis of national origin, as well as race, color, religion, and sex.

- What “National Origin?” term includes:
 - Birthplace
 - Ancestry
 - Culture
 - Linguistic characteristics
 - Other characteristics that may be common to a specific ethnic group

Discrimination: National Origin

- Hostile or offensive work environment interfering with individual's performance may be created by:
 - Forbidding employees from speaking other language (Note: "English Only" for some public services is a legitimate requirement that is related to Public Safety).
 - Using derogatory nicknames
 - Practical jokes and teasing
 - Making fun of holidays, religious observances, dress, food, etc.
 - Wearing tee shirts with derogatory caricatures
 - Racial, ethnic or cultural slurs

Sexual Harassment

■ DEFINITION

Title VII Civil Rights Act Prohibits:

Employment discrimination against any individual with respect to their compensation, terms, conditions or privileges of employment, because of such individual's race, creed, color, sex, age, national origin, ancestry, or disability.

Sexual Harassment

- Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

Submission to such conduct is made explicitly or implicitly a term/condition of individual's employment; or submission to or rejection of such conduct is used as basis for employment decisions.

Such conduct has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual Harassment

■ DEFINITION 1

■ Submission: Quid Pro Quo

- “This for that.”
- Supervisor makes a term or condition of employment in exchange for sexual favors.
- Supervisors makes employment decisions (assignments, workload, shifts, etc.) based on sexual favors.

Sexual Harassment

■ DEFINITION 2

■ Hostile Work Environment

- Supervisor, co-worker, or non-employee interferes with work performance by creating an intimidating, hostile, or offensive work environment by conduct that is sexual in nature.

Sexual Harassment

■ REQUIRED ELEMENTS

TO BE UNLAWFUL:

- ➔ Unwelcome,
- ➔ Sexual in nature or conduct based on sex,
- ➔ Unreasonably offensive, and
- ➔ Pervasive or severe

Sexual Harassment

“Based on sex”

ABUSE OF POWER

supervisory
threats for sex,
dates, etc.

VERBAL

requests for
dates, jokes,
insults

TOUCHING

grabbing,
squeezing

WRITTEN

e-mail,
internet, notes

NON-VERBAL

pictures,
cartoons,
gestures
conduct

THREATS

stalking,
assault

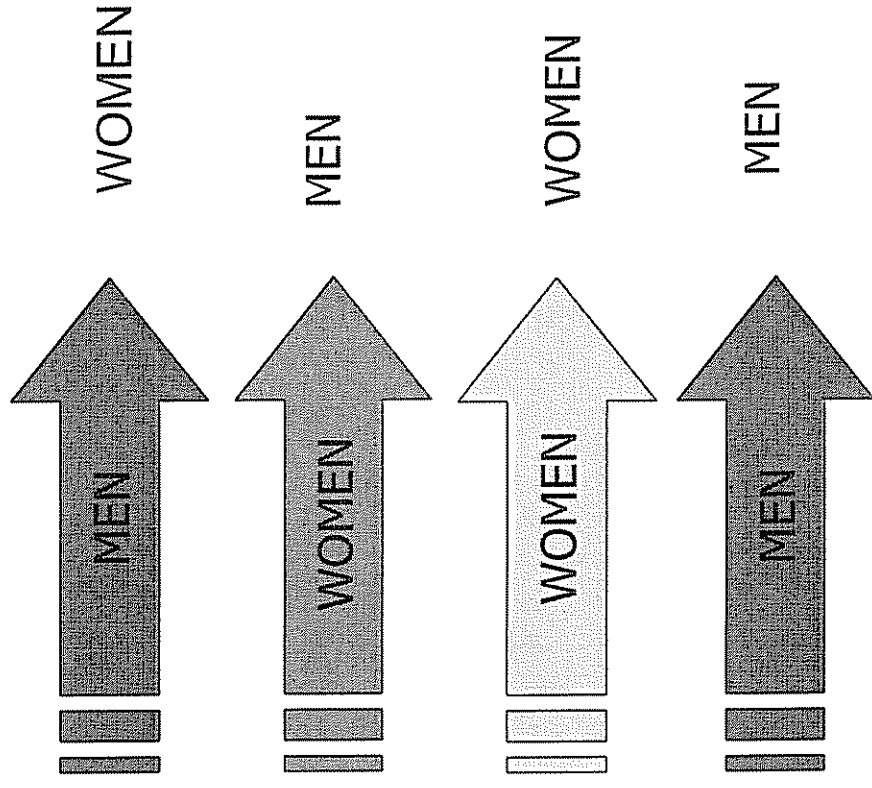
Sexual Harassment

■ ELEMENTS “Unwelcome”

- Employee has not invited the conduct; or
- Conduct that was once welcome by an employee becomes unwelcome; and
- Unacceptable by the victim.

Sexual Harassment

■ ELEMENTS “Based on sex”



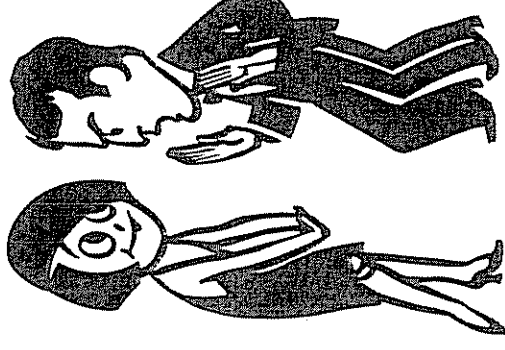
Sexual Harassment

■ ELEMENTS

“Based on sex”

Also means:

Demeaning or degrading
behavior directed toward
an employee because
of gender.



Sexual Harassment

■ ELEMENTS

“Unreasonably Offensive”

- The harasser’s conduct is evaluated from the objective standard of a “reasonable person”



Sexual Harassment

■ ELEMENTS “Unreasonably Offensive”

■ “Reasonable Person” standard

- Objective test
- Totality of circumstances
- Gender and age of employee are factors

P E R V A S I V E N E S S									
Lewd Comments and Jokes					Sexual Assault				
SEVERITY OF CONDUCT									

OK

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Sexual Harassment

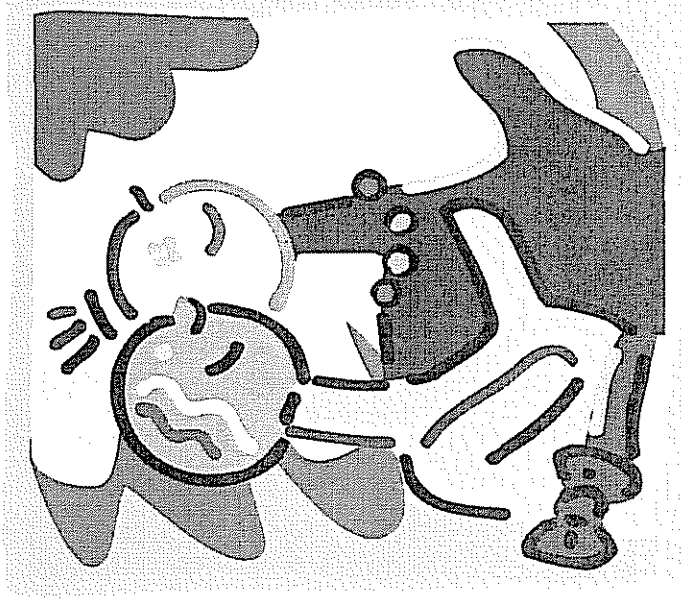
- IS SO PERVASIVE OR SEVERE THAT IT:
 - Alters conditions of employment
 - Creates work environment that is:
 - Intimidating,
 - Hostile, or
 - Offensive
 - Or, unreasonably interferes with the individual's work performance.

Sexual Harassment

■ OTHER ISSUES FOR SUPERVISORS

- Favoritism,
- Off duty conduct,
- Consensual relationships

Can lead to charges of discrimination by others



Sexual Harassment

■ EMPLOYER'S DEFENSE

■ Two Part Test

- Employer exercised reasonable care to prevent and promptly correct harassment; or
- Employee failed to take advantage of preventative or corrective opportunities

Sexual Harassment

■ EMPLOYER LIABILITY

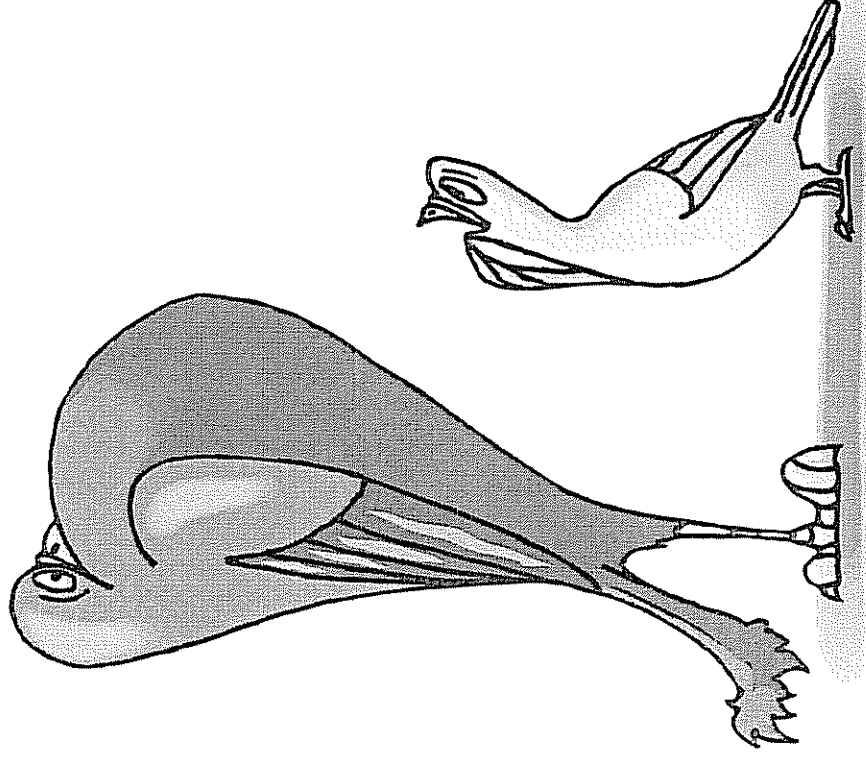
- Hostile Work Environment includes:
 - conduct of customers, vendors, visitors ...
 - IF employer had control, and knew of the conduct, and failed to take appropriate corrective action.

Sexual Harassment

■ VICTIMS:

JUST SAY “NO”

Statistics show that a harasser becomes empowered/bold when no resistance or objections.



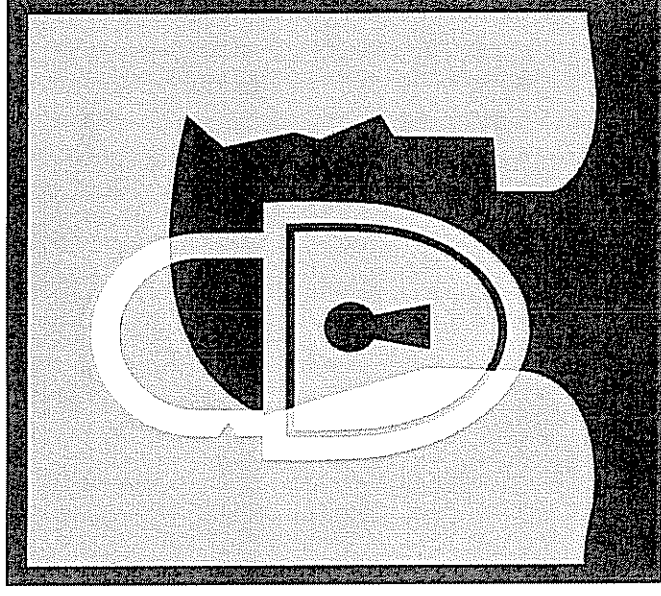
Sexual Harassment

■ VICTIMS:

- Report to anyone in authority with whom you feel comfortable
- Do NOT have to follow chain of command.
- Director of Human Resources or CEO is always available regardless of rank/office of harasser.
- If CEO, then report to Board President or attorney for the District.

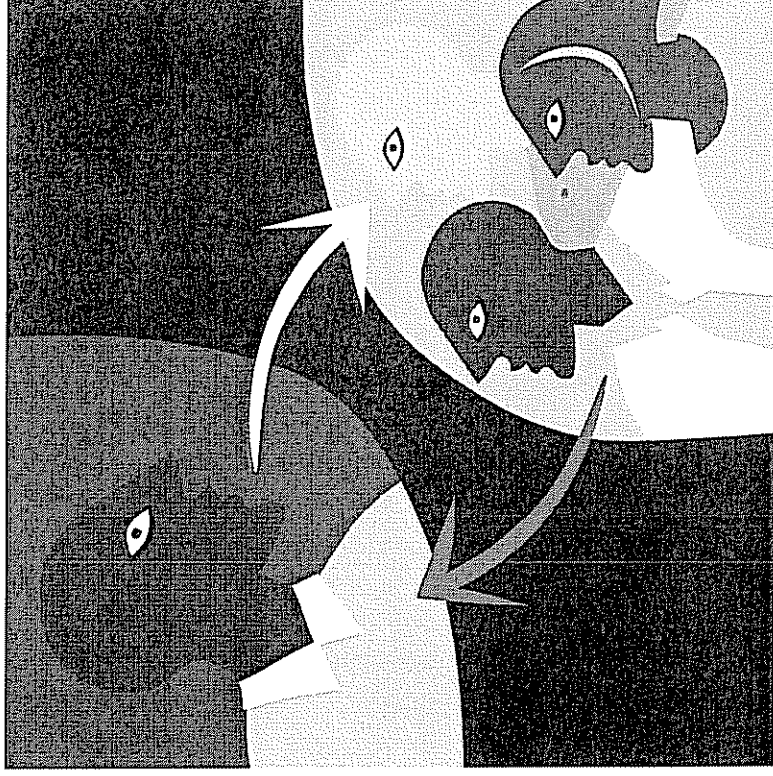
Sexual Harassment

- **CONFIDENTIALITY**
- Will be maintained to the extent it is possible.
- Reports/investigations are NOT public records.



Sexual Harassment

■ SUPERVISORS:

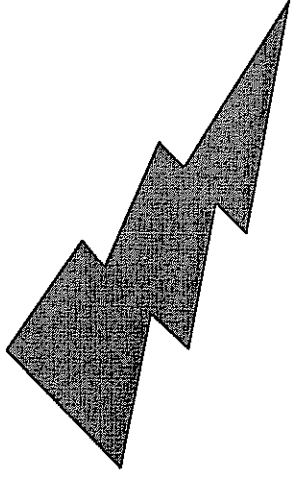


Never presume that
silence is indicative
that the situation
is corrected.

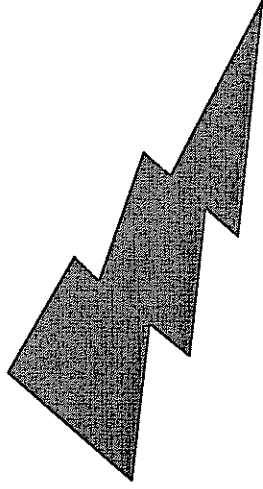
Actively inquire!

Sexual Harassment

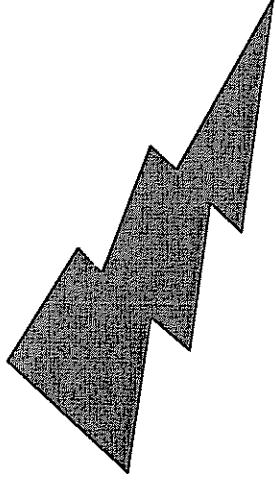
SUPERVISORS:



STOP



DROP EVERYTHING



AND INVESTIGATE

NOW

Aretha Franklin was right:

R-E-S-P-E-C-T

■ QUESTIONS ?